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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,699	01/29/2004	Thomas J. Daley	04-6174 (069547.0174)	5670

63710 7590 09/15/2011  
INNOVATION DIVISION  
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NEW YORK, NY 10022

EXAMINER
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SHRESTHA, BIJENDRA K

ART UNIT	PAPER NUMBER
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3691

NOTIFICATION DATE	DELIVERY MODE
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09/15/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/767,699	<b>Applicant(s)</b> DALEY ET AL.	
	<b>Examiner</b> BIJENDRA K. SHRESTHA	<b>Art Unit</b> 3691	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 10 and 43-74 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 10 and 43-74 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

Claims 10 and 43-74 are presented for examination. Applicant filed an amendment on 06/22/2011 amending claims 53-74. After careful consideration of applicant's amendments and arguments, new ground of rejections of claims has been established in the instant application as set forth in detail below. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 10 and 43-74 are rejected under 35 U.S.C. 103(a) unpatentable over Korhammer et al., U.S. Pub No. 2004/0236662 (reference A in attached IDS submitted

Art Unit: 3691

on 11/18/2005) in view of Keith, U.S. Pub No. 2001/0042040 (reference B in attached PTO-892) and Tozzoli et al., U.S. Patent No. 5,717,989 (reference C in attached PTO-892).

4. As per claim 10, Korhammer et al. teach a method comprising:

transmitting, via a processor, a trading order that comprises a request to buy or sell a quantity of a trading product (see Fig. 1, paragraph [0049] ; where user trading order is transmitted by CCS 101 when user filled Lava order Launcher screen in Fig. 2);

transmitting, via the processor, a disclosure amount for the trading order, in which the disclosure amount is a portion of the quantity of the trading product that is to be disclosed (see Fig. 2; DELL (1080), Total Quantity (1010), Maximum disclosure Quantity or Show (1040); paragraph [0052]);

receiving, from a remote device, an indication that a plurality of market centers that match the trading order (see Fig. 1; paragraph [0046]; where Consolidated Computer System (CCS) 100 collects orders from ECN150, ECN251, ECN353 and ECN454 and NASDAQ52) and distributes to the trader),

in which each market center provides, at a price, the disclosure amount of the requested trading product (see page 7, paragraph [0056], Table 1),

in which each market centers comprises a disclosure that indicates at least one rule for disclosing the trading order, and adopted by each identified market center (see Fig. 1; paragraph [0047]; where customized order book on the trader terminal organized by security and price disclosing each market center and its information);

in which the processor and the remote device are in communication over a network (see Fig. 1; paragraph [0039]; where CCS and ECNs are in communication over network)

receiving, from the remote device, an indication that the trading order has been routed to a first market center (see Fig. 5, paragraph [0070]; where network processes communicate with one another by intention to Trade (ITT) message, order message and execution message), in which the price of the first market center, when compared with the prices of the other market centers, provides a best price for the trading order (see paragraph [0056-0057]).

Korhammer et al. do not teach each market centers comprises a disclosure policy that indicates at least one rule for disclosing the trading order; and routing the trading order the first market center according to the first disclosure policy.

Keith teaches each market centers comprises a disclosure policy that indicates at least one rule for disclosing the trading order (Keith, paragraph [0290-0295 and routing the trading order the first market center according to the first disclosure policy (Keith, paragraph [0295]).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include each market centers comprises a disclosure policy that indicates at least one rule for disclosing the trading order; and routing the trading order the first market center according to the first disclosure policy of Korhammer et al. because Keith teaches including above features would enable to specify formula for

Art Unit: 3691

establishment of contra-party preferences which allows order room to preferences for particular counter-parties (Keith, paragraph [0295]).

Tozzoli et al. also teach each market centers comprises a disclosure policy that indicates at least one rule for disclosing the trading order (Tozzoli, column 5, lines 47-67 to column 6, lines 1-31) and routing the trading order the first market center according to the first disclosure policy (Tozzoli et al., column 6, lines 45-67 to column 7, lines 1-5).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include each market centers comprises a disclosure policy that indicates at least one rule for disclosing the trading order; and routing the trading order the first market center according to the first disclosure policy of Korhammer et al. because Tozzoli et al. teach including above features would enable to the trade system transmit to the seller all buyer's offers which meet the seller terms for which funding is guaranteed (Tozzoli et. al., column 6, lines 65-66).

5. As per claim 43, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method in which the best price comprises

a bid price that is higher than other bid prices provided by the plurality of other market centers (see page 7, paragraph [0056], Table 1; where bid price \$24.05 of MLCO, GSDO and ISLD is higher than that of ARCA and FBCO).

6. As per claim 44, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the best price comprises

an offer price that is lower than other offer prices provided by the plurality of other market centers (see paragraph [0058]; where Lava Launcher “sweep order” exhaust current inside price before moving to a worse level, lower price for sell order).

7. As per claim 45, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which

the trading product comprises at least one of: a stock; a bond; and a futures contract (see paragraph [0034]).

8. As per claim 46, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the at least one rule of the first disclosure policy comprises:

disclosing to other market participants the quantity of the desired trading product and the disclosure amount (see Fig. 2; DELL (1080), Total Quantity (1010), Maximum disclosure Quantity or Show (1040); paragraph [0052]).

9. As per claim 47, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which

the first disclosure is a proprietary reserve policy (see Fig. 2, paragraph [0059]).

10. As per claim 48, Korhammer et al. teach claim 47 as described above.

Korhammer et al. further teach the method, in which the act of transmitting the trading order to the first market center further comprises:

transmitting, to the first market center, a reserve order that comprises the quantity of the desired trading product, in which the reserve order is not disclosed publicly; transmitting a first disclosure order to the first market center, in which a

Art Unit: 3691

quantity of the first disclosure order equals the disclosure amount (see Fig. 2, Show Value = 1000, Reserve Quantity; where reserve quantity is not disclosed and CCS sells 1000 shares of Dell at 20 and discretion of 0.10);

receiving an indication that the first disclosure order has been executed; transmitting, in response to the indication that the first disclosure order has been executed, a second disclosure order to the first market center, in which the second disclosure order equals the lesser of: the disclosure amount, or a remaining amount, in which the remaining amount comprises the quantity of the reserve order minus the quantity of the first disclosure order (see Fig. 2, paragraph [0059]; where CCS will further sell up to 9000 reserve quantity within the discretion amount).

11. As per claim 49, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the at least one rule of the first disclosure policy comprises:

transmitting a day order to the first market center, in which the day order comprises the disclosure quantity and the day order that remains on an order book of the first market center for the duration of a trading day until one of the following occurs: the trading day ends, the day order is canceled, or the day order is filled (see Fig. 2, Sweep Order; paragraph [0055]; where sweep order continues to work until filled, cancelled or until expires based on user specified duration).

12. As per claim 50, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the at least one rule of the first disclosure policy comprises:



disclosing only the disclosure amount to other market participants (see Fig. 2; DELL (1080), Total Quantity (1010), Maximum disclosure Quantity or Show (1040); paragraph [0052]).

13. As per claim 51, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which

the first disclosure policy is an immediate-or-cancel (IOC) policy (see paragraph [0112]).

14. As per claim 52, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the act of routing the trading order to the first market center further comprises:

transmitting an IOC order that comprises the quantity of the desired trading product; and receiving an indication from the first market center that a portion of the IOC order has been executed; and transmitting, in response to receiving the indication that the portion of the IOC order has been executed, a request to cancel a remainder of the IOC order with the first market center, in which the remainder comprises the quantity of the desired trading product minus the executed portion of the IOC order (see paragraph [0112]; where entire quantity of the order sent as IOC to first market center providing the best price, and IOC order sent to subsequent market center for entire remaining unexecuted quantity).

15. As per claim 53, Korhammer et al. teach an apparatus comprising:

a processor; and a memory, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method as described in claim 10 above (see Fig. 1; paragraph [0046] and [0049]; where Consolidated Computer System (CCS) processes and routes order).

16. As per claims 54-63, Korhammer et al. teach claim 53 as described above. Claims 54-63 are rejected under same rational as claims 43-52 respectively as described above.

17. As per claim 64, Korhammer et al. teach an article of manufacture comprising: a storage medium, in which the storage medium stores instructions which, when executed by a processor, direct the processor to perform the method as described in claim 10 above (see Fig. 3, Messaging System 100'; paragraphs [0015], [0023], [0066] and [0049]; where plurality of users send messages/instructions to CCS (server) to execute an order which is stored in messaging system of CCS (100')).

18. As per claims 65-74, Korhammer et al. teach claim 64 as described above. Claims 65-74 are rejected under same rational as claims 43-52 respectively as described above.

### ***Response to Arguments***

19. New ground of rejections of claims has been established in the instant application as set forth in detail below. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

20. Accordingly, this action is made **NON-FINAL**. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. The following are pertinent to current invention, though not relied upon:

Bennett et al. (U.S. Patent No. 7,110,969) teach methods of and systems for electronic order routing (CORS).

Bundy et al. (U.S. Patent No. 7,242,669) teach methods and systems for multi-path routing of electronic orders for securities.

Buckwalter (U.S. Pub No. 2003/0177082) teaches method and apparatus for processing and routing transactions.

Buckwalter et al. (U.S. Pub no. 2003/0177085) teach method and apparatus for monitoring and evaluating trade activity.

Hausman (U.S. Pub No. 2002/0178104) teaches price change of orders from reserve in an electronic trading system.

Keith (U.S. Pub No. 2001/00420240) teaches routing control for orders eligible for multiple markets.

Korhammer et al. (2004/0143538) teach automated system for routing orders for financial instruments based upon undisclosed liquidity.

Korhammer et al. (U.S. Pub No. 6,278,982) teach securities trading system for consolidation of trading on multiple ECNs and electronic exchange.

Marynowski et al. (U.S. Pub No. 2007/0156574) teach automated trading system in an electronic trading exchange.

Ordish et al. (Patent No. 5,727,165) teach offer matching system having timed matched acknowledgement.

Scheinberg et al. (U.S. Pub No. 2008/0319891) teach clearing system for an electronic-based market.

Shapiro (U.S. Pub No. 2002/0091606) teaches predictive automated routing system (PARS) for securities trading.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571)270-1374. The examiner can normally be reached on 7:00AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 3691

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/BIJENDRA K. SHRESTHA/  
Primary Examiner, Art Unit 3691  
09/10/2011